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**VIA ELECTRONIC MAIL**

Monica Harvey  
Virginia Department of Environmental Quality  
629 East Main Street  
P.O. Box 1105  
Richmond, VA 23218

Re: PJM Interconnection L.L.C. Comments on the Draft Consent Order Between the Virginia Department of Environmental Quality and the Mirant Potomac River Generating Station and the Draft Order of the City of Alexandria

Dear Ms. Harvey:

In response to the Virginia Department of Environmental Quality's ("DEQ") request for comments on the above referenced draft consent orders, PJM Interconnection L.L.C. ("PJM") is providing this response for the limited purpose of highlighting the importance of the Mirant Potomac River Generating Station ("Potomac River") for maintaining reliability in the District of Columbia region during planned transmission line outages in June, 2007. PJM urges the DEQ to give appropriate consideration to this issue in its review of the alternative consent orders.

The Potomac River plant is currently operating under two relevant orders, one, an emergency order from the Secretary of the Department of Energy ("DOE"), which essentially requires Mirant to operate the plant to maintain the reliability in the District of Columbia region.<sup>1</sup> The second order is an Environmental Protection Agency Administrative Compliance Order by Consent ("ACO").<sup>2</sup> Relevant to these comments, both orders require Mirant to operate the Potomac River facility during line outage situations at the direction of PJM.<sup>3</sup>

Operation of the Potomac River plant under the DOE Order and the ACO has enabled Mirant to operate the facility in accordance with PJM's requirements to maintain reliability in the DC area. This result has been facilitated by the operation of a section in the ACO that provides an appropriate release for Mirant when it operates the Potomac River station during line outages in accordance with PJM's direction.<sup>4</sup>

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<sup>1</sup> See *District of Columbia Public Service Commission*, Order No. 202-05-3, issued in Docket No. EO-05-01 ("DOE Order"). The DOE order was issued in response to an emergency petition filed by the District of Columbia Public Service Commission. See Emergency Petition and Complaint of District of Columbia Public Service Commission, filed with the Federal Energy Regulatory Commission in Docket No. EL05-145-000.

<sup>2</sup> See Mirant Potomac River LLC Potomac River Generating Station, Alexandria, Virginia, Administrative Compliance Order by Consent, issued in Docket No. CAA-03-2006-0163DA.

<sup>3</sup> See Section VI, Ordering Paragraph A, of the DOE Order, and Section C of the ACO.

<sup>4</sup> See Paragraph 2 of Section C of the ACO.

However, the ACO expires on June 1, 2007, and thereby creates a risk for Mirant with respect to potential emissions violations that could result when the plant is operating pursuant to PJM's direction and in accordance with the DOE Order.<sup>5</sup> Thus, the operational status of Potomac River after June 1, 2007, may be at issue during the scheduled line outages and until the relevant transmission upgrades are completed and in operation. The potential operational issues arise due to the possible reluctance of Mirant to operate the plant because of the risk created by the expiration of the ACO.

This situation presents a reliability concern because the Potomac River plant is needed to maintain reliability in the DC area until the relevant transmission upgrades are completed and in-service. This is especially true during the scheduled line outage situations, and this situation is particularly problematic for the upcoming summer months, when peak demand occurs, because the planned line outages could significantly impact the ability of PJM to maintain reliability in the DC region if the Potomac River facility is not available. As such, it is critical that all five units at Potomac River be available for operation during the planned line outages.

PJM understands that the draft consent orders noticed for comment by DEQ are intended to provide a transitional mechanism that enables Mirant to continue to operate the plant in a manner that maintains reliability in DC, and is consistent with all applicable environmental regulations. While taking no position on the environmental issues, it is PJM's position that the full capacity of the Potomac River facility must be available for reliability after June 1, 2007, and until such time as the line outages are over and the relevant transmission system upgrades are completed and in-service.<sup>6</sup> This does not necessarily mean that all five units must run during this period. Rather, the plant needs to be available to "follow the load" at PJM's direction during this period in order to maintain compliance with PJM reliability criteria. Consequently, PJM urges DEQ to adopt the draft consent order that best facilitates the operation of the Potomac River plant in accordance with PJM's directions during the planned (or unplanned) line outage situations and until the PEPCO transmission upgrades are in-service.

PJM has reviewed the drafts and both seem to provide the requisite authority for Mirant to operate the facility pursuant to PJM's direction during line outages.<sup>7</sup> However, neither draft would provide the level of protection afforded by the release in the ACO.<sup>8</sup> Given that the risk to Mirant created by the expiration of the ACO results in a corresponding risk to reliability,<sup>9</sup> to the extent that one of the draft orders is superior in terms of facilitating reliability by creating a risk structure pursuant to which Mirant will operate Potomac River in accordance with PJM's operational directions during the planned line outage situations and until the relevant transmission upgrades are in in-service, PJM supports that option to avoid any undue

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<sup>5</sup> The risk results because with the expiration of the ACO, Mirant loses the protection provided for in paragraph 2 of Section C of that order.

<sup>6</sup> Given that the transmission upgrade s are expected to be complete and in -service on July 1, 2007, it is anticipated this period of time will be limited to the month of June.

<sup>7</sup> See Draft Consent Order between the Virginia Department of Environmental Quality and the Mirant Potomac River Generating Station at p. 15, paragraph 24 of the Operation During Line Outage Situations section, and the Draft Order from the City of Alexandria at p. 11, paragraph 14 of the Operation During Line Outage Situations section.

<sup>8</sup> See footnote 4.

<sup>9</sup> The reliability risk is due to the fact that the company may not operate its units during line outage situations in accordance with PJM's directives.

operational uncertainty during this period. PJM respectfully suggests that serious consideration be given to this issue in reviewing the alternative draft orders. Of course, Mirant is under an Order from the Secretary of Energy to make the plant available to run at PJM's direction for reliability purposes. PJM takes no position on whether Mirant's unwillingness to run in the face of that DOE Order is legal or appropriate. Rather, given the relatively short time frame at issue and the imminent need in the month of June, PJM wishes to bring to the Board's attention the need for resolution of this matter in a manner which does not cast doubt on the plant's ability to run at PJM's direction to maintain reliability during the period prior to the PEPCO transmission lines being placed in service.

Finally, although the transmission upgrades and corresponding line outages are anticipated to be completed by July 1, 2007, the best laid plans of mice and men often go awry. Therefore, the effective term of any consent order should reflect the potential for unanticipated circumstances by ensuring the order applies for an adequate period beyond July 1, 2007, or, at the very least, provides an appropriate degree of flexibility to extend the order as necessary to address unforeseen delays.

PJM recognizes that any consent order must necessarily comply with all relevant environmental regulations. However, until the transmission upgrades are complete, the Potomac River facility must be available to meet the reliability needs of the DC region during line outages. The ACO expires in less than a month creating a potential reliability risk due to Mirant's possible reluctance to run the plant without the operation of the ACO. Accordingly, PJM urges the Board to act expeditiously and adopt the draft consent order that will best facilitate the maintenance of reliability by ensuring the full capacity of the Potomac River is available for operation, subject to PJM direction, during line outages until the scheduled PEPCO transmission upgrades are complete.

Please do not hesitate to contact me should you need additional information or wish to further discuss this submittal.

Sincerely,



Matt Morais  
Senior Counsel

cc: Michael J. Kormos, Sr. VP, Reliability Services  
Robert Hinkel General manager, Regional Operations  
Craig Glazer, Vice President-Federal Government Policy  
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